

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

**WEDNESDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 20350 OF 2020

Between:

Ajmeera Ravi, S/o. Chandrunayak, Age.32yrs, Occ. Cooly, R/o. H.No. 4-176, Pedda Thundla, Village, Malharrao Mandal, Karimnagar District, State of Telangana.

...PETITIONER

AND

1. The State of Telangana, Rep, by its Principal Secretary, Home Department, Secretariat at Hyderabad.
2. The Deputy Prohibition and Excise, Commissioner Office of at Karimnagar District.
3. The Station House Officer, Pro and Excise Office of Manthani, Karimnagar District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of a Writ of Mandamus declaring the action of the Respondent No. 2 in not releasing Petitioner Motor Cycle Vehicle bearing Registration No TS 25B0055, CB SHINE WF DRUM BK S&ES Chassis Number ME4JC65AGJT11037, Engine Number. JC66ET2172342 in connection with C.O.R. NO. 145 of 2020 dt. 11.09.2020 on the file of 3rd respondent as illegal, arbitrary and unfair and consequently direct the respondents to release the Motor Cycle Vehicle bearing registration No. TS 25B0056 into the interim custody of the Petitioner.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 2 herein to forthwith release the Petitioner Motor Cycle Vehicle bearing Registration No TS 25B0055, CB SHINE WF DRUM BK Sand ES Chassis Number ME4JC65AGJT11037, Engine Number. JC66ET2172342 into the interim custody of the petitioner in connection with C.O.R. No. 145 of 2020 dt. 11.09.2020 on the file of 3rd respondent, pending disposal of the Writ Petition.

Counsel for the Petitioner : SRI BHANOTHU HUSSAIN

Counsel for the Respondent No.1: AGP FOR HOME

Counsel for the Respondent Nos.2 & 3: AGP FOR PROHIBITION AND EXCISE

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.20350 of 2020

ORDER:

Heard learned counsel for petitioner, learned Assistant Government Pleader for Prohibition and Excise and learned Assistant Government Pleader for Home.

2. This writ petition is filed praying to direct respondents to release the CB Shine WF Drum BKS&ES bearing registration No.TS 25 B 0055 which was seized on the allegation of illegal transportation of I.D.liquor.

3. According to State Government, producing illicit liquor and its distribution is prohibited. According to the State, consumption of liquor is *per se* harmful to health of a person and consumption of spurious liquor is more harmful and can result in instantaneous death. The officials in their endeavour to thwart any attempt to manufacture illicit liquor, seize the commodities and vehicles involved in illegal transportation. After seizure of the vehicles, confiscation proceedings are taken up and if the allegations are proved, the vehicle can be confiscated.

4. The Telangana Prohibition Act, 1995 and The Telangana Excise Act, 1968 regulate all aspects of liquor in the State of Telangana, including manufacture, distribution and consumption.

5. By placing reliance on several decisions of this Court, learned counsel for petitioner prayed to allow the writ petition directing the respondents to release the vehicle subject on deposit

of an amount of ₹.10,000/- and compliance of further directions issued by this court in several writ petitions.

6. The statement of learned counsel for petitioner that similar matters are disposed of with conditions, including furnishing fixed deposit/bank guarantee as the case may be, is not disputed by the learned Assistant Government Pleader. However, he only emphasises that higher amount of fixed deposit should be directed to be furnished by the petitioner before seeking to release the vehicle. He further submits that the competent authority to deal with confiscation proceedings is Deputy Commissioner and he alone is competent to release the vehicle pending completion of confiscation proceedings. He therefore submits that direction be given to the petitioner to file application before the Deputy Commissioner praying to grant interim custody of the vehicle.

7. Having regard to the consistent view taken by this Court, this Court on similar issue, passed detailed orders in W.P. Nos.14801 and 14811 of 2020 dated 8.9.2020. Following the same, this writ petition is disposed of with following directions:

(i) Petitioner is granted liberty to file application to the Deputy Commissioner (2nd respondent), to grant interim custody of the vehicle.

(ii) If such application is filed, pending final orders to be passed in confiscation proceedings, the 2nd respondent is directed to release CB Shine WF Drum BKS&ES bearing registration No.TS 25 B 0055 on petitioner furnishing fixed deposit receipt as proof of opening fixed deposit account for an amount of ₹.10,000/- (Rupees Ten thousand only).

(iii) Petitioner is further directed not to encash the fixed deposit or create lien or mortgage on the fixed deposit till the conclusion of confiscation proceedings.

(iv) The petitioner shall produce original R.C. Book of the vehicle at the time of seeking release of the vehicle.

(v) Petitioner shall furnish undertaking that he will not transfer or alienate the vehicle to third party in any manner and will maintain the vehicle in the same good roadworthy condition without changing its major parts and features.

(vi) Petitioner should produce the vehicle as and when directed by the concerned Court or competent authority.

No costs. Miscellaneous petitions, if any pending, stand closed.

//TRUE COPY//

SD/-I.NAGALAKSHMI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat at Hyderabad.
2. The Deputy Prohibition and Excise, Commissioner Office of at Karimnagar District.
3. The Station House Officer, Pro. and Excise Office of Manthani, Karimnagar District
4. One CC to Sri Bhanothu Hussain, Advocate [OPUC]
5. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CCs to GP for Prohibition and Excise, High Court for the State of Telangana at Hyderabad (OUT)
7. Two CD Copies

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HIGH COURT

DATED:16/12/2020

ORDER

WP.No.20350 of 2020



DISPOSING OF THE WP

WITHOUT COSTS

(10) VWV
22/12/20